

Message Text

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AID-20 CIEP-03 SS-20 STR-08 TAR-02 TRSE-00 PRS-01

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FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA IMMEDIATE

INFO AMCONSUL RIO DE JANEIRO IMMEDIATE

AMCONSUL SAO PAULO

C O N F I D E N T I A L STATE 197587

E.O. 11652:DECLAS AFTER PUBLICATION ON NOON, SEPT. 11, 1974

TAGS:ETRD, EFIN, BR

SUBJ: COUNTERVAILING DUTY: BRAZILIAN FOOTWEAR

REF: BRASILIA 6724

1. FOLLOWING IS TEXT OF PRESS RELEASE SENT IN REFTTEL, AS
CLEARED BY DEPTMENTS OF STATE AND TREASURY FOR PUBLICATION
BY EMBASSY ON WEDNESDAY NOON, SEPTEMBER 11.

2. BEGIN QUOTE: IN CONNECTION WITH THE SEPTEMBER 11
ANNOUNCEMENT BY THE U.S. DEPARTMENT OF THE TREASURY OF A
DECISION TO APPLY COUNTERVAILING DUTIES ON BRAZILIAN SHOES
IMPORTED BY THE UNITED STATES, THE AMERICAN EMBASSY WISHES
TO PROVIDE THE FOLLOWING INFORMATION: A. BACKGROUND OF THE
DECISION: ON JULY 19, 1973, THE UNITED STATES DEPARTMENT
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OF THE TREASURY RECEIVED A COMPLAINT FROM THE AMERICAN FOOTWEAR INDUSTRIES ASSOCIATION ALLEGING THAT BRAZILIAN SHOE MANUFACTURERS-EXPORTING SHOES TO THE UNITED STATES WERE RECEIVING GOVERNMENT SUBSIDIZATION WHICH CONSTITUTES A "BOUNTY OR GRANT" WITHIN THE MEANING OF THE COUNTERVAILING DUTY LAW, AND REQUESTING THAT, THROUGH THE US CUSTOMS SERVICE, THE DEPARTMENT OF THE TREASURY CONDUCT AN INVESTIGATION INTO THIS COMPLAINT UNDER THE TERMS OF THE COUNTERVAILING DUTY LAW.

B. THE COUNTERVAILING DUTY LAW REQUIRES THE SECRETARY OF THE TREASURY TO IMPOSE AN ADDITIONAL DUTY ("COUNTERVAILING DUTY") EQUAL TO THE AMOUNT OF ANY "BOUNTY OR GRANT" DETERMINED BY HIM TO BE PAID OR BESTOWED ON DUTIABLE IMPORTS INTO THE UNITED STATES. IT REQUIRES THE SECRETARY TO ASSESS A COUNTERVAILING DUTY ONCE HE DETERMINES A "BOUNTY OR GRANT" TO EXIST. THE ADHERENCE OF THE UNITED STATES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) DOES NOT MODIFY THE REQUIREMENTS OF THIS LAW SINCE IT PREDATES THE GATT AGREEMENT.

C. ON MARCH 8, 1974 A FORMAL COUNTERVAILING DUTY PROCEEDING NOTICE WAS ISSUED WHICH INVITED THE SUBMISSION OF COMMENTS FROM INTERESTED PARTIES WITHIN 30 DAYS. THIS IS THE NORMAL PERIOD FOR THE SUBMISSION OF INFORMATION IN SUCH INVESTIGATIONS.

D. DURING THE VISIT OF TREASURY SECRETARY SHULTZ TO BRASILIA ON MARCH 29, 1974, IT WAS AGREED WITH THE BRAZILIAN AUTHORITIES THAT THE DEPARTMENT OF THE TREASURY WOULD EXTEND THE INVESTIGATION FOR 60 DAYS BEYOND THE NORMAL 30-DAY PERIOD IN ORDER TO GIVE THE NEW BRAZILIAN GOVERNMENT AND THE BRAZILIAN SHOE EXPORTERS SUFFICIENT TIME TO PREPARE WRITTEN COMMENTS FOR DELIVERY TO THE DEPARTMENT OF THE TREASURY.

E. FOLLOWING THE DELIVERY OF WRITTEN COMMENTS BY THE GOB AND BY BRAZILIAN SHOE EXPORTERS, TECHNICAL DISCUSSIONS BETWEEN UNITED STATES TREASURY OFFICIALS AND BRAZILIAN FINANCE MINISTRY REPRESENTATIVES WERE HELD BOTH IN WASHINGTON AND BRASILIA.

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F. THE DECISION: AFTER A THOROUGH ANALYSIS OF ALL THE FACTS PRESENTED INCLUDING A STUDY OF THE EXPERIENCE OF TWELVE REPRESENTATIVE BRAZILIAN SHOE EXPORTERS WITH THE EXPORT INCENTIVE SYSTEM APPLICABLE TO THE SHOE INDUSTRY, THE DEPARTMENT OF THE TREASURY CONCLUDED THAT PART OF THE SYSTEM OF INCENTIVES CONSTITUTED BOUNTIES OR GRANTS IN

THE TERMS OF THE U.S. COUNTERVAILING DUTY LAW. THE SYSTEM OF EXPORT INCENTIVES FOR SHOES PRESENTED SPECIAL CHARACTERISTICS WHICH REQUIRED THE U.S. AUTHORITIES TO IMPOSE TWO RATES OF DUTY IN ORDER TO OFFSET THE BOUNTIES OR GRANTS AND FULFILL THE LEGAL REQUIREMENTS OF THE COUNTERVAILING DUTY STATUTE. IN ORDER TO ADMINISTER THIS SYSTEM, TREASURY WILL GROUP BRAZILIAN EXPORTERS INTO TWO CATEGORIES: THE TREASURY HAS ANNOUNCED A MAXIMUM RATE OF 4.8 PERCENT FOR THOSE FIRMS EXPORTING MORE THAN 40PERCENT OF THEIR TOTAL SALES IN VALUE TERMS AND A MAXIMUM RATE OF 12.3 PERCENT FOR THOSE FIRMS EXPORTING LESS THAN 40 PERCENT OF THEIR TOTAL SALES.

G. THESE ARE MAXIMUM RATES AND ARE NOT NECESSARILY THE DUTIES THAT WILL BE ACTUALLY APPLIED IN ALL CASES. THE DEPARTMENT OF THE TREASURY HAS ANNOUNCED THAT, FOR THOSE FIRMS WHICH CAN DEMONSTRATE THAT THEY RECEIVE LESS THAN THE MAXIMUM SUBSIDY RATE (4.8 PERCENT OR 12.3 PERCENT) IN THEIR RESPECTIVE CATEGORIES, IT WILL IMPOSE A COUNTERVAILING DUTY EQUAL TO THE ACTUAL AMOUNT OF THE SUBSIDY RECEIVED BY THE PARTICULAR FIRM. THE DEPARTMENT OF THE TREASURY HAS STATED THAT REQUESTS FOR A LOWER DUTY ON BEHALF OF ANY INDIVIDUAL FIRM WILL BE PROCESSED VERY RAPIDLY. THE TREASURY ESTIMATES THAT APPROXIMATELY 76 PERCENT OF BRAZILIAN SHOE EXPORT WOULD BE SUBJECT TO A DUTY OF 4.8 PERCENT OR LESS, AND 24 PERCENT WOULD BE SUBJECT TO A DUTY OF OF 12.3 PERCENT OR LESS.

H. OBSERVATIONS: ACCORDING TO DEPARTMENT OF COMMERCE STATISTICS, BRAZIL'S EXPORTS OF SHOES TO THE U.S. WERE THE FOLLOWING FOR THE YEARS INDICATED (VALUE IN MILLION U.S. DOLLARS): 1970 - 6.4; 1971 - 23.4; 1972 - 41.8; 1973 - 81.3; 1974 JAN/JUNE - 40.8.

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I. THE UNITED STATES DOES RECOGNIZE AND APPRECIATE THE SPECIAL NEEDS OF DEVELOPING COUNTRIES IN THE TRADE AREA. THE PROPOSED TRADE REFORM ACT, CURRENTLY BEING CONSIDERED BY THE UNITED STATES CONGRESS, SEEKS LEGISLATIVE AUTHORITY TO RESPOND TO THOSE SPECIAL NEEDS BY MODIFYING EXISTING LEGISLATION TO ALLOW PREFERENTIAL ACCESS TO THE U.S. MARKET FOR CERTAIN PRODUCTS OF DEVELOPING COUNTRIES. MOREOVER, DURING THE COURSE OF THE GATT TRADE NEGOTIATIONS DISCUSSIONS IN GENEVA, THE UNITED STATES HAS STATED ITS WILLINGNESS TO CONSIDER THE POSSIBILITY OF AN AGREED SET OF INTERNATIONAL RULES ON COUNTERVAILING DUTIES AND EXPORT SUBSIDIES AND IN THAT CONTEXT TO DISCUSS DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES. END QUOTE. KISSINGER

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